

STATE OF MICHIGAN
COURT OF APPEALS

WILLIAM RAY BARTH and
CONSTANCE A. BARTH,

UNPUBLISHED
June 24, 1997

Plaintiffs-Counter
Defendants-Appellants,

v

No. 192177
Jackson Circuit Court
LC No. 95-73798 CH

JOHN A. DAINES and
MARY ANNE DAINES,

Defendants-Counter
Plaintiffs-Appellees.

Before: Gage, P.J., and Reilly and Hoekstra, JJ.

MEMORANDUM.

One day before their period of redemption expired, plaintiffs asked defendants' attorney if defendants would waive their rights of redemption long enough for plaintiffs to close on a pending sale and satisfy related contingencies. Defense counsel presented that request to defendants, who declined because of the outstanding contingencies. A writ of restitution issued the following day. Defendants listed the property for sale and sold it for \$95,000 to the same purchasers who had offered to buy the property from plaintiffs.

Plaintiffs then brought the present action, as to which summary disposition was granted by the Jackson Circuit Court. Plaintiffs appeal by right. This case is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiffs argue that the trial court erred, given their claim of detrimental reliance, in relying on the statute of frauds as a basis for granting summary disposition to defendants. However, whether or not the statute of frauds applies, if plaintiffs are claiming under a contract they must first establish a "meeting of the minds" on all the essential terms of that contract. A mere expression of intention does not make a binding contract. *Kamalnath v Mercy Memorial Hospital Corp*, 194 Mich App 543, 548-549; 487 NW2d 499 (1992). Similarly, plaintiffs cannot properly invoke the doctrine of equitable estoppel, both

because the underlying promise must be definite and clear, and because, in addition to detrimental reliance, there must be unjust enrichment of the defendants at the plaintiffs' expense. *Kamalnath, supra*, at 551-552. Both essential elements necessary to give rise to an estoppel are absent in the present case.

Plaintiffs argue in the alternative that the meaning of the statement "We will work with you" is sufficiently ambiguous so as to create a triable issue of fact. The problem with this theory, however, is that the very ambiguity of the statement precludes liability on either a contract or estoppel theory for the reasons already adduced: insufficient indicia that a "meeting of the minds" ever occurred which could be the subject of an enforceable contract, and lack of a firm and definite promise sufficient to support a claim of estoppel. Summary disposition was therefore correctly granted.

Affirmed.

/s/ Hilda R. Gage
/s/ Maureen Pulte Reilly
/s/ Joel P. Hoekstra